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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,239	10/16/2003	Michael Gilfix	AUS920030360US1	8992

7590 06/27/2008

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EXAMINER	
THOMAS, JASON M	

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
06/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/687,239	GILFIX ET AL.	
	Examiner	Art Unit	
	Jason Thomas	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 March 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/12/08 have been fully considered but they are not persuasive.

Applicant asserts that Broadwin does not disclose: a) receiving a selection signal indicating that a user has selected an item displayed on a television screen, wherein the item is included in the television program being displayed, and b) wherein the item has associated non-intrusive interactive advertising content as claimed in the present application.

Applicant asserts that selection options which may take the form of thumbprint images displayed are not "items that are included in a television program." However Broadwin states that a thumbprint image is an interactive item of a program and is also contained in the television program (see [col. 17, ll. 35-48] where television program includes the various user selections to be selected by the user) furthermore these interactive components are intertwined with the television program (see [abstract] for the user selectively navigating between the video content and stills in a web-like hyperlinked fashion; [col. 2, ll. 38-51] for interactive program content which is executable to display selection options; [col. 2, ll. 52-56], [col. 5-6, ll. 53-10], [col. 6, ll. 50-67]) where the selection options are thumbprint images (see [col. 9, ll. 49-60]; see also [col. 1, ll. 54-56] to allow users to interact with the broadcast content; see also [col. 10, ll.

22-28] for the video content of the AVI signal being viewed when a selection is made).

Applicant also asserts that the interactive advertising is not non-intrusive however Broadwin states the user must initiate a selection in order to view desired advertisement information (see [abstract], [col. 2, ll. 49-65], [col. 17, ll. 32-45], see also [col. 11, ll. 13-33] for providing the user the option to return to watching the AV component of the AVI signal if they are not interested in the selections).

Thus for the aforementioned reasons Broadwin does teach all of the limitations of the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Broadwin et al. U.S. Patent No. 5,929,850 (hereinafter Broadwin).

Regarding claim 1: Broadwin discloses a method, system and process (as indicated by the flow diagrams) for displaying (delivering) interactive advertising content, the method comprising: receiving a selection signal

indicating that a user has selected an item displayed on a television screen, the item included in the television program being displayed, wherein the item has associated non-intrusive interactive advertising content; responsive to receiving the selection signal, identifying the selected item; and displaying the associated non-intrusive interactive advertising content (see [figures 6, 8, 13, 14, 17 and 18], [column 3 lines 44-65], [column 5 lines 64-66], [column 7 lines 52-63] for receiving a selection signal from a remote control; see also [column 1 line 62 through column 2 line 8], [column 2 lines 53-66], [column 18 lines 4-18 and lines 48-55] for identifying and displaying the content associated with the user's selection).

Regarding claim 2: Broadwin discloses all of the limitations of claim 1 including further comprising receiving and storing advertising data that associates the selected item with a screen region and with interactive advertising content (see [abstract], [figures 8, 13 and 14], [column 3 lines 15-23], [column 3 lines 24-43] for receiving and storing data; see also [column 3 lines 48-54], [column 10 lines 38-47], [column 18 lines 15-19] for an association with the advertising content).

Regarding claim 3: Broadwin discloses all of the limitations of claim 2 including wherein receiving the advertising data comprises receiving the advertising data encoded in a video signal that includes a video image of the item (see [figure 3], [column 3 lines 37-40], [column 6 lines 23-31], [column 6 lines 23-27], [column 7 lines 3-12] for receiving data video images over a video signal).

Regarding claim 4: Broadwin discloses all of the limitations of claim 2 including wherein the advertising data is encoded in a digital data stream separate from a video signal and receiving the advertising data comprises receiving the data stream through a digital network (see [figure 10] for a media server which transmits on a digital network; [column 3 lines 24-43], [column 3 lines 62-64], [column 6 lines 9-17], [column 13 lines 13-30] for a media or web server which maintains advertising data content).

Regarding claim 6: Broadwin discloses all of the limitations of claim 1 further comprising: receiving one or more designation signals, wherein each designation signal represents an instruction to designate an item having associated non-intrusive interactive advertising content; responsive to receiving each designation signal, designating singly, as a currently designated item, each of a multiplicity of items having associated non-intrusive interactive advertising content; wherein identifying the selected item comprises identifying as the selected item the currently designated item (see [abstract], [column 7 lines 52-63] where a STB receives a signal designating a screen selection or button which is associated with a non-intrusive advertising content; see also [column 2 lines 61-67] where one of several still images which is linked to the user's selection is identified as corresponding to the selection and displayed).

Regarding claim 7: Broadwin discloses all of the limitations of claim 6 including wherein designating singly each of a multiplicity of items further comprises logically designating an item and visually designating an item (see

[column 2 lines 47-52], where the invention inherently requires the use of a logical designation to reference or link the MPEG stills with the appropriate interactive content; see also [column 2 lines 61-67] where the invention inherently requires the use of a logical designation to link the user selection with the corresponding still image; see also [column 3 lines 46-62] for a displayed option which the user can view and select; see also [column 7 lines 52-63] for a visually designated selection or button which is displayed).

Regarding claim 8: Broadwin discloses all of the limitations of claim 7 including wherein logically designating an item comprises setting a designation data element in advertising data for the item (see [column 10 lines 58 through column 11 line 12] where the advertising still image (data) includes an associated interactive program or content which is linked (designated) to the selected item).

Regarding claim 10: Broadwin discloses all of the limitations of claim 7 including wherein visually designating an item comprises changing a video display of the item (see [figure 6, 13], [column 9 lines 33-40] where once a user selects one of the video still images displayed on the screen, the corresponding video still image is displayed on the screen thus the video display of item is changed).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 5, 9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadwin et al. in view of Wistendahl et al. U.S. Pre-Grant Pub. No. 2002/0056136 A1 (hereinafter Wistendahl).

Regarding claim 5: Broadwin does not explicitly teach wherein the advertising data includes instructions for control of the display of interactive non-intrusive advertising content for the item.

Wistendahl teaches processing instructions for control of the display of interactive non-intrusive content for the item (see [0011], [0012], [0043] where the IDM module processes information sent to it to display either a pop-up window, overlay display, audio track, display of text, graphics, etc.; see also [0044] where the IDM module controls the display by instructing the content, per the user's request, to be played at a later time).

At the time the invention was made it would have been obvious, to one of ordinary skill in the art, to have some controlling device such as the IDM to control the display of the interactive content by means of instructions, as taught in Wistendahl, to facilitate the proper or desired display of advertisements, as

taught in Broadwin, because this would further allow advertisers to display their advertisements in a more tailored thus more effective way (see Broadwin column 1 line 66 through column 2 line 8).

Regarding claim 9: Broadwin does not explicitly teach wherein visually designating an item comprises displaying descriptive text for the item.

Wistendahl teaches wherein visually designating an item comprises displaying descriptive text for the item (see [0043], [0064] where a user's click (designation) can initiate a linked display of text; see also [0065] where a biography is displayed in a window; see also [0066] where a pop-up quote or trivia question is displayed).

At the time the invention was made it would have been obvious, to one of ordinary skill in the art, to display text, as taught in Wistendahl, in addition to displaying graphics, as taught in Broadwin, because text is commonly used to convey information used in advertisements, infomercials and other forms of information sharing (see Wistendahl [0064] where displaying text is an expected function for advertisements).

Regarding claim 11: Broadwin does not teach tracking a cursor position on the television screen, wherein identifying the selected item comprises identifying the selected item in dependence upon the cursor position when the selection signal is received.

Wistendahl teaches the use of a mouse or other pointing device which is tracked to correlate the screen coordinates of the pointing device with what the user has selected (see [0015], [0016], [0042], [0067], [0088]).

Regarding claim 12: Broadwin does not teach wherein the identifying the selected item in dependence upon the cursor position further comprises determining whether the cursor position is within a screen region associated with the item.

Wistendahl also teaches determining whether a pointing device or cursor is aimed at a hot spot (screen region associated with the item) or at positions of objects (see [0015], [0016], [0042], [0067], [0088]).

At the time the invention was made it would have been obvious, to one of ordinary skill in the art, to use the tracking techniques associated with using a pointing device, as taught in Wistendahl, to select objects on the display screen, as taught in Broadwin, because pointing devices, and the methods associated with using pointing devices, are commonly used to facilitate user interaction with visually displayed selectable options.

Regarding claim 13: Broadwin does not explicitly disclose wherein the advertising content comprises a web page describing the item and offering an on-line sale of the item.

Wistendahl teaches initiating an internet connection to a WWW service which offers an item for purchase (see [0043], [0064]).

Regarding claim 14: Broadwin does not explicitly disclose wherein displaying the associated non-intrusive interactive advertising content comprises downloading a web page from a remote web site identified in a link associated with the selected item.

Wistendahl also teaches where a web page can be downloaded through a link associated with a selected item (see [0043], [0064]).

At the time the invention was made it would have been obvious, to one of ordinary skill in the art, to offer advertisements for sales of items in addition to doing so by providing access to remote web sites, as taught in Wistendahl, to expand upon the media server services, as taught in Broadwin, because expanding upon the means by which information can be retrieved, unlimited types and varieties of interactive actions can be activated (see [0043]).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Thomas whose telephone number is (571) 270-5080. The examiner can normally be reached on Mon. - Thurs., 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J. Thomas

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2623